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FM AMEMBASSY KYIV  
TO RUEHC/SECSTATE WASHDC PRIORITY 1647  
INFO RUCNCIS/CIS COLLECTIVE  
RUEHZG/NATO EU COLLECTIVE

C O N F I D E N T I A L SECTION 01 OF 03 KYIV 000666

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E.O. 12958: DECL: 03/22/2016  
TAGS: [PHUM](#) [PGOV](#) [PINR](#) [UP](#)  
SUBJECT: UKRAINE: RAIDS AIMED AT LUTSENKO WIDEN TO  
SUPPORTERS, COURT SUSPENDS CRIMINAL CASE

REF: A. KYIV 642  
[B](#). KYIV 283  
[C](#). 04 KIEV 4235

Classified By: Ambassador for reasons 1.4 (b) and (d).

[1](#). (SBU) Summary: Following the March 20 Prosecutor General Office (PGO) early morning raid on former Interior Minister Yuriy Lutsenko's apartment (ref A), on March 21, police allegedly broke into the Kyiv office of the Anti-Criminal Choice NGO (without a warrant) headed by Lutsenko's brother Serhiy, attempted to raid the apartment of the NGO's Kyiv coordinator Yaroslav Hodunok, summoned Hodunok and Lutsenko ally Taras Stetskiv separately for questioning, and may be initiating actions against the NGO's provincial offices. Lutsenko himself spent four hours answering questions at the PGO March 21 but did not return for an afternoon interrogation after a court suspended the criminal case and the pre-trial investigation, pending a review of Lutsenko's appeal. President Yushchenko, commenting publicly on the pressure against Lutsenko and his team for the first time, called the criminal case a "political order" designed to prevent Lutsenko from traveling around the country.

[2](#). (SBU) Summary, cont: Ambassador raised our concerns March 21 with PM adviser Gryshchenko, who acknowledged that this situation looked bad for the Government, but stressed that the PG was appointed by the President under the previous constitution. Lutsenko, who plans to resume his provincial rallies in Zhytomyr March 23 and Chernihiv March 24, told Ambassador March 22 that "old leaders," both orange and blue, were coming back into power and falling back into old habits. They were scarred by the Orange Revolution and their perception that Kuchma had simply failed to use the government apparatus correctly to hold onto power. They could not understand that Lutsenko's movement was not aimed at removing them from office, but rather at empowering people to demand changes from their elected officials.

[3](#). (C) Comment. Yushchenko's appeal to the GPO not to repeat the mistakes of 2004, when similar pressure was used against civic action groups and activists, including Hodunok, and to remember its role as a protector of human rights, is being read here as a warning to the PM and the Government, who are seen here by some as working behind the scenes with the Prosecutor's Office to get Lutsenko. Lutsenko seems willing to take the high road and wait this out, but he does believe that international opinion should make clear that these events are not democratic or appropriate in a country that says it wants to be part of Europe. Interestingly enough, Yuliya Tymoshenko and her team have remained silent about Lutsenko's predicament, underscoring the fact that her concern about Lutsenko as a competitor may outweigh any impulse to publicly defend democratic principles. We will stay in close contact with Lutsenko and his allies and continue to raise our concerns with government officials about the apparent politically-motivated use of law

enforcement organs against political opponents. End Summary and Comment.

Police expand the target list to brother and allies

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14. (SBU) After PGO investigators spent March 20 raiding and interrogating civic activist Yuriy Lutsenko, the police expanded the effort March 21, targeting Lutsenko's brother Serhiy, who heads the "Anti-Criminal Choice" NGO, part of the People's Self-Defense movement, the NGO's Kyiv Coordinator Hodunok, and Lutsenko ally (and Presidential adviser) Taras Stetskiv. The NGO's Kyiv coordinator Hodunok, also a local municipal council member, told the press that, repeating the March 20 pattern, police arrived March 21 for an early morning search of the NGO's office without a court-issued warrant (which arrived later). The stated purpose was to search for explosives, arms, and contraband in a follow-up to a cache of weapons discovered in the basement of the same building earlier in this week.

15. (SBU) Hodunok told reporters that, despite lacking a warrant, police broke down a door of the NGO's Kyiv office before he arrived, demanded to bring him in for questioning, but then negotiated terms of his appearance since he had the status of a local council member (note: Hodunok was also targeted in a well known wave of raids on NGOs and civic activists October 22, 2004, on the eve of the first round of the Presidential elections - see ref C). According to Serhiy Lutsenko, lawyers for the NGO and a local TV station were allowed to enter the office several hours after the raid began but their access to the office was limited. Serhiy Lutsenko claimed to us that the questioning was intended to prevent Hodunok from leading a planned protest at the PGO

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where Yuriy Lutsenko was being questioned.

16. (SBU) Hodunok told the press the police only found eggs and pretzels at the NGO office, and that the arms cache in the building's basement appeared to hold old weapons in well-maintained condition, much like what one would find in a police armory. The weapons cache was also located under the Pechersk police directorate chief's apartment, not the NGO's office. In a separate statement, deputy SBU Chief Hennadiy Moskal said that had no information on any groups associated with Yuriy Lutsenko's People's Self Defense organization having weapons, adding that the cache's location seemed unconnected.

17. (SBU) In a separate incident, the PGO summoned Lutsenko ally Stetskiv for questioning. Stetskiv told a press conference later that the PGO had revived an investigation into his activities in 2005 as head of the state television station UT-1, specifically expenditures on the May 2005 Eurovision broadcast. Previous audits had uncovered no discrepancies, he stated. Separately, Pavlo Sevostyanov, former OSCE regional coordinator for Crimea, called us late March 21 to report that People's Self-Defense activist and former Shchelkino Territorial Election Committee Chair Mykola Harmash, was illegally detained; Harmash remained in detention March 22. Serhiy Lutsenko also told us that an Anti-Criminal Choice office in the city Kharkiv had been broken into on March 20 and that police in Vinnytsya Oblast were planning a search of the NGO's offices there.

Criminal investigation suspended - Lutsenko on the move?

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18. (SBU) Mid-day March 21, the Podil District Court suspended the criminal case and the pre-trial investigation against Lutsenko, pending a review of the case's legal merits and his appeal that procedural violations had occurred. Lutsenko chose not to return to the PGO for afternoon questioning after the ruling, and Lutsenko's lawyer stated that the suspension allowed Lutsenko to resume his weekend provincial

rallies, planned for Zhytomyr on March 23 and Chernihiv March 24. During an evening interview on TV channel 11, Lutsenko claimed that he had two days' notice of the March 20 raid, which unsuccessfully sought to find alleged office furniture from the Ministry of Interior and a supposed Israeli passport. According to Lutsenko, he removed nothing from his apartment prior to the search.

Ambassador raises concern with PM adviser...

19. (C) Ambassador raised our concerns about the appearance of the use of law enforcement agencies to pressure political opponents with PM adviser Konstantin Gryshchenko late March 21. Gryshchenko began by noting that the Prosecutor General was a presidential appointee and therefore, only Yushchenko has the power to stop this investigation. (Embassy note: Under the new constitution, the President does have the right to dismiss the Prosecutor General, but only with Rada approval, under certain circumstances included in a law on the Prosecutor General, that predates the 2004 constitutional amendments. However, the constitution also allows for the Rada to dismiss the Prosecutor General through a vote of no confidence. End Note.) Gryshchenko went on to argue that the case was actually unfairly damaging the PM's reputation. The case was not within the PM's control, yet he looked bad and Lutsenko was benefiting from the publicity. In his view, Lutsenko had not experienced real discomfort that would accompany a stay in a Ukrainian jail.

10. (C) At the end of the conversation, Gryshchenko grudgingly agreed that he understood our concerns and accepted that the case looked bad for Ukraine, regardless of who was at fault. He said that he would ensure that the Prime Minister knew of Washington's concern about the case. Interestingly enough, opposition leader Yuliya Tymoshenko has yet to make any public comments about Lutsenko's case. Tymoshenko confidante and BYuT Rada deputy Hrihorii Nemiriya acknowledged to the Ambassador that BYuT had not commented on Lutsenko's case, but noted that the investigation and the ongoing controversy over the cancellation of a political talk show on UT-1 (septel) had increased concern in the opposition camp about the Government's latest actions.

...and meets Lutsenko

11. (C) Ambassador met Yuriy Lutsenko at the Embassy late March 22. Lutsenko said that the attacks on him and his allies were a sign of "old people from the old system" coming back into power. (He said that Yanukovych, Yushchenko,

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Tymoshenko, and even, he, Lutsenko, were still post-Soviet.) These people were still "psychologically traumatized" by the Orange Revolution and could not accept that protests could have any goal other than the overthrow of the government. Lutsenko said that he had tried to explain to DPM Kluyev, a friend of his, that his movement was meant to spur the current government to fulfill the promises it made to the people and was not another Maidan, but Kluyev just could not believe it.

12. (C) Lutsenko proposed a theory for why the PGO had become so deeply involved in action against him. Deputy PG Rinat Kuzmin, widely regarded as the Donetsk clan's primary man in the PGO, bore a personal grudge against him, because Lutsenko had been considering helping the Klitchko and Tymoshenko forces in Kyiv to push for a recall of current mayor Chernovetskiy. In such a scenario, Lutsenko would then run for mayor to secure a platform from which to demonstrate that some politicians actually work for the good of the people. However, Kuzmin is a longtime business partner of Chernovetskiy's, according to Lutsenko, and consequently sought to harass Lutsenko and his allies. Finally, Lutsenko suggested that "external forces" (the normal reference to

Russia) were playing a key role in the anti-Lutsenko PR.

¶13. (C) Looking into the future, Lutsenko said he still believed his movement was a several year project; his aim was to politically mobilize the youth and the middle class, to make them aware that they could change their own future. He would, in fact, like to be mayor of Kyiv. He claimed 15-20 Rada MPs wished to join his People's Self-Defense movement. President Yushchenko continued to pressure Lutsenko to head the People's Union Our Ukraine (PUOU) party, but Lutsenko believed PUOU was a dying organization--he could envision cooperating with them, but never joining them. Laughingly referring to an upcoming meeting with Yushchenko, he quipped: "I'd rather be in the prosecutor's office again, than with the President right now," because it was so hard for Lutsenko to keep saying no to a man he respected so much.

¶14. (C) Lutsenko noted that he had sat down with Tymoshenko recently and suggested that they cooperate, but she had refused to listen to him. According to Lutsenko, she wanted a two-party system in which she controlled 50 percent of Ukraine (with Regions controlling the other half). Lutsenko believed such a model would leave the country with a winner-take-all government that would never move in the right direction.

¶15. (U) Visit Embassy Kyiv's classified website:  
[www.state.sgov.gov/p/eur/kiev](http://www.state.sgov.gov/p/eur/kiev).  
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